

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN CARTER, ET AL.,

Plaintiffs

CIVIL ACTION

vs.

NO

MARTIN HORN, ET AL.,

Defendants

JURY TRIAL DEMAND

CLASS ACTION COMPLAINT

MOTION FOR APPOINTMENT OF COUNSEL
AND AN INVESTIGATOR

COMES PLAINTIFFS, John Carter, Jimmy McWhirter, Mariano Pellot, David Campbell, Arthur Carmichael, pursuant to 28 U.S.C. § 1915 (d), hereby moves this Court to appoint Counsel to represent them in this case; and, for appointment of an expert, in the way of an Investigator, pursuant to this court's discretion under 18 U.S.C. § 3006A (g) and/or 28 U.S.C. § 1651 §41, for the following reasons:

1. PLAINTIFFS ARE NOT ABLE TO AFFORD COUNSEL, OR A NEEDED INVESTIGATOR.
2. THE ISSUES INVOLVED IN THIS CASE ARE VERY COMPLEX.

3. PLAINTIFFS BEING UNTRAINED IN LAW ARE THEREBY UNABLE TO ADEQUATELY PREPARE AND LITIGATE THIS CASE BECAUSE OF ITS COMPLEXITY.

4. THE ENDS OF JUSTICE AND PUBLIC INTEREST WOULD BEST BE SERVED IN THIS CASE IF AN ATTORNEY, AND AN INVESTIGATOR WERE APPOINTED TO REPRESENT THE PLAINTIFFS AND CLASS.

PLAINTIFFS PRO, PE

John O. Carter
James M. Whiston
Marianne Bellot
David L. Campbell
Arthur J. Armistead

DATED Dec 20th, 1999 c.e.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN CARTER, ET AL., : CIVIL ACTION
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 Plaintiffs :
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 : NO
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 VS. :
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 : CLASS ACTION COMPLAINT
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 MARTIN HORN, et al., :
 :
 Defendants : JURY TRIAL DEMAND

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'

MOTION FOR APPOINTMENT OF COUNSEL

AND AN INVESTIGATOR

Plaintiffs, John Carter, Jimmy Mcwhirter, Mariano Pellot david Campbell, and Arthur Carmichael, hereby submits the following Memorandum of Law in support of their Motion For appointment of Counsel pursuant to 28 U.S.C. § 1915(d); And, for appointment of an Investigator pursuant to the court's discretion under 28 U.S.C. § 1651(a) and /or 28 U.S.C. § 3006A(g).

1. the Court, pursuant to 28 U.S.C. §1915(d) may ask an Attorney to represent an indigent Plaintiff in a civil action, once the Plaintiff has demonstrated that exceptional circumstances exist in his case to justify the appointment of

Counsel.....Aldaba V. Aldaba, 616 F.2d 1089, 1093 (9th Cir. 1980);

And, if it appears that an indigent plaintiff with a claim of

arguable merit is incapable of presenting his or her case; then consideration should be given to appointment of Counsel....Gordon V. Leska, 374 F.2d 1147, 1153 5 n.3 (4th Cir.) cert. den. 439 U.S. 970, 98 S.Ct. 484, 58 L.Ed.2d 431 (1978).

2. Plaintiffs submit that the Court should appoint Counsel; because, Plaintiffs' case is an exceptional case in which the assistance of counsel is necessary to clarify facts and to research legal issues Hodge v. Police Officers, 302 F.2d 58 (2d Cir. 1963); In its discretion the Court will ask a Private Attorney to act on behalf of an indigent plaintiff in a civil action, when the Complaint raises various issues of public importance, or substantial deprivations of a particular right... Coruth v. Zinkney, 553 F.2d 1044 (3d Cir. 1976);

Smith-Sey

V. Petsook,

784 F.2d

22, 26 (3d Cir. 1984)

3. The Third Circuit court of Appeals in examination of appointment of counsel stated that appointment should be made only upon showing of special circumstances indicating the likelihood of substantial prejudice from the probable inability to present complex but arguable meritorious case.

4. Likewise, given the needs of Plaintiffs to be able to present factual evidence, such as photographs of such things as the overcrowded housing of plaintiffs - Photos of the antiquated Hot water system - ventilation system - hazardous fire prevention

system of management, Etc. Et. :

the appointment of an Investigator, to assist appointed Counsel in this case is necessary and appropriate in this case.

4. Given the need of Plaintiffs John Carter, Jimmy McWhirter, Mariano Pellet, David Campbell, and Arthur Carmichael, and their inability to properly present their case to a Jury, due to lack of knowledge of the science of law, and the importance of the issues sought to be litigated in the instant Complaint: the appointment of Counsel is particularly appropriate in the instant case.

WHEREFORE,, For all the reasons discussed above, the appointment of Counsel and an Investigator in the instant action is particularly prudent due to the nature of the issues to be presented and sought to be litigated.

Respectfully submitted,

PLAINTIFFS Pro. Per.:

John R. Carter
Jimmy McWhirter
Mariano Pellet
David J. Campbell
Arthur Carmichael

DATED: Dec 20th, 1999c.e.